



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re the application of:

Jeffrey A. Colborn et al.

Art Unit: 1745

Examiner: Unassigned

**COPY OF PAPERS
ORIGINALLY FILED**

Application No.: 10/066,544
Filed: October 19, 2001

For: **FUEL CELL SYSTEM**

RECEIVED

AUG 27 2002

PETITION FOR INCLUSION OF OMITTED ITEMS

OFFICE OF PETITIONS

Commissioner for Patents
Washington, D.C. 20231

Sir:

This is a Petition for Inclusion of Omitted Items in response to the Notice to File Missing Parts of Non-Provisional Application mailed March 18, 2002 (copy attached). In particular, the Patent and Trademark Office states that Figure 1A appears to have been omitted from the application. Figure 1A is listed as a part of the specification under the heading "Brief Description of the Drawings" at page 4, line 10.

In response, Applicant respectfully requests that the attached FIGURE 1A (attached as Exhibit A) be considered as having been filed with the subject application on October 19, 2001 for the following reasons:

Figure 1A is Incorporated by Reference into the Subject Application

Figure 1A was included as part of Howrey Docket No. 04813.0026.NPUS00 (Application Serial No. 10/058,231, filed October 19, 2001; attached hereto as Exhibit B) and Howrey Docket No. 04813.0013.NPUS00 (Application Serial No. 10/060,965; filed October 19,

CERTIFICATE OF MAILING
(37 C.F.R. §1.8a)

I hereby certify that this paper (along with any referred to as being attached hereto) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

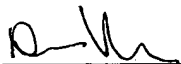
April 15, 2002
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Diana Vilkaitis
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2001; attached hereto as Exhibit C) both of which are incorporated in their entirety by reference in the subject application in the section entitled "RELATED APPLICATION" set forth on page 2, line 10 – page 3, line 5. Because the above concurrently filed patent applications were incorporated in their entirety in the subject application, Figure 1A should therefore be considered as having been filed with the subject application on October 19, 2001.

Figure 1A is Adequately Described in the Specification

Figure 1A illustrates a block diagram of an alternative embodiment of a metal-based fuel cell and is described on page 12, lines 4-10 of the application. Therefore, Figure 1A does not add new matter to the specification because it merely illustrates what has already been adequately described within the specification. For this additional reason, Figure 1A should be entered and considered as part of the application submitted on October 19, 2001.

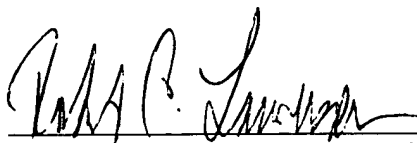
Action to be Taken in the Alternative

We believe that this petition should be granted. However in the event this petition is denied, Applicant hereby authorizes the Commissioner to delete the passages in the application which refer to Figure 1A. These passages comprise page 4, line 10 and page 12, lines 4-10. An amendment implementing the foregoing is attached. Regardless of what action is taken on the petition, the October 19, 2001 filing date should be retained.

The Commissioner is hereby authorized to charge the petition fee (37 C.F.R. §1.17(h)) of \$130.00, and charge any deficiency or credit any overpayment, to our Deposit Account No. **08-3038**, referencing Docket No. 04813.0028.NPUS00.

Respectfully submitted,

Date: April 11, 2002


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